

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Katherine White	Team: Squad #5	CCRB Case #: 202000507	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 08/30/2019 6:00 AM	Location of Incident: § 87(2)(b)	Precinct: 32	18 Mo. SOL 2/28/2021	EO SOL 10/15/2021	
Date/Time CV Reported Sun, 01/19/2020 4:19 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 01/19/2020 4:19 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. Officers			NARCBMN
2. DT3 Daniel Madden	1328	950796	NARCBMN
3. DT3 Jerry Varice	6156	951365	NARCBMN

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. CPT Daniel Campbell	00000	932403	NARCBMN
2. SGT Ian Scheinblum	05075	941140	D-E T/F
3. DT3 Michael Duffy	1235	948329	NARCBMN
4. DT3 Patrick Daly	1563	953797	NARCBMN
5. DT3 Douglas Ryan	5560	951190	NARCBMN
6. DT3 Raymond Curbelo	1560	945636	GANG MN
7. POM Jorge Monge	06417	955212	NARCBMN
8. POM Victor Nunez	17632	940520	NARCBMN
9. POM Brandon Gembecki	01517	949015	NARCBMN
10. DT3 Christophe Moroni	01860	946607	GANG MN
11. SGT James Burke	01185	950127	DB CEIS

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Daniel Madden	Abuse: Detective Daniel Madden damaged § 87(2)(b)'s property.	§ 87(2)(g)
B.DT3 Daniel Madden	Abuse: Detective Daniel Madden entered § 87(2)(b) in Manhattan.	§ 87(2)(g)
C.DT3 Daniel Madden	Abuse: Detective Daniel Madden searched § 87(2)(b) in Manhattan.	§ 87(2)(g)
D.DT3 Jerry Varice	Discourtesy: Detective Jerry Varice spoke discourteously to § 87(2)(b)	§ 87(2)(g)
E.DT3 Jerry Varice	Abuse: Detective Jerry Varice threatened § 87(2)(b) with the use of force.	§ 87(2)(g)
F.DT3 Jerry Varice	Off. Language: Detective Jerry Varice made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)	§ 87(2)(g)

Officer(s)	Allegation	Investigator Recommendation
G.DT3 Jerry Varice	Discourtesy: Detective Jerry Varice spoke discourteously to § 87(2)(b)	§ 87(2)(g)
H.DT3 Jerry Varice	Discourtesy: Detective Jerry Varice acted discourteously toward § 87(2)(b)	§ 87(2)(g)
I. Officers	Abuse: Officers threatened to arrest § 87(2)(b)	§ 87(2)(g)
J. Officers	Abuse: Officers threatened § 87(2)(b) with the arrest of § 87(2)(b)	§ 87(2)(g)
K. Officers	Abuse: Officers damaged § 87(2)(b)'s property.	§ 87(2)(g)
L. Officers	Abuse: Officers damaged § 87(2)(b)'s property.	§ 87(2)(g)

Case Summary

On January 19, 2020, § 87(2)(b) filed this complaint on the CCRB website (**BR01**). § 87(2)(b) did not file the complaint until nearly five months after the incident.

On August 30, 2019, at approximately 6 a.m., § 87(2)(b) and his sister, § 87(2)(b) were sleeping in their bedrooms at a residence belonging to their grandmother, § 87(2)(b). Detective Daniel Madden of Manhattan North Narcotics, accompanied by other officers including Sergeant Ian Scheinblum and Detective Jerry Varice, executed a search warrant at the apartment by breaking down the front door (**Allegations A-C: Abuse of Authority**, § 87(2)(g)). Det. Varice entered § 87(2)(b) bedroom and allegedly said, “Motherfucker, you make that dog jump, I’ll kill you and the dog, I’m gonna shoot and kill” (**Allegation D: Discourtesy, unsubstantiated; Allegation E: Abuse of authority**, § 87(2)(g)). Det. Varice handcuffed § 87(2)(b) then allegedly said, “Stop being a bitch, man up, you know what you did” (**Allegation F: Offensive Language**, § 87(2)(g)); **Allegation G: Discourtesy**, § 87(2)(g)). Det. Varice allegedly brought § 87(2)(b) into the living room naked or wearing sweatpants with a large hole which exposed § 87(2)(b) genitals (**Allegation H: Discourtesy**, § 87(2)(g)). § 87(2)(b) was handcuffed and brought into the living room with § 87(2)(b). During the search of the apartment, two officers allegedly said to § 87(2)(b) “If you tell us there’s a gun and give it to us, it’s a misdemeanor; if we find a gun and you don’t tell us, you’re all going to jail” (**Allegations I-J: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) bed and dresser, and § 87(2)(b) construction certificates, were allegedly damaged during the search (**Allegations K-L: Abuse of Authority, officer(s)** § 87(2)(g)).

§ 87(2)(b) was arrested for criminal possession of a controlled substance in the seventh degree and unlawful possession of marijuana in the second degree (**BR03**).

The investigation did not obtain any video footage of this incident. The officers were not equipped with BWCs at the time of the incident.

Sgt. Scheinblum has since been reassigned to the Drug Enforcement Task Force.

This investigation was slowed by § 87(2)(b) waiting nearly five months to file his complaint. The investigation was further slowed by delays in officer interviews during the COVID-19 pandemic, as well as particular delays in obtaining a statement from Det. Madden.

Findings and Recommendations

Allegation (A) Abuse of Authority: Detective Daniel Madden damaged § 87(2)(b) s property.

Allegation (B) Abuse of Authority: Detective Daniel Madden entered § 87(2)(b) .

Allegation (C) Abuse of Authority: Detective Daniel Madden searched § 87(2)(b) .

It is undisputed that Det. Madden had a valid “no-knock” search warrant (**BR02**) for the apartment, which was issued the day before the incident. It is also undisputed that officers forcibly entered the apartment and searched it.

§ 87(2)(b) testified in his initial complaint (**BR01**) and phone statement (**BR04**) that officers forcibly entered the apartment. § 87(2)(b) similarly testified in her initial phone statement (**BR05**) and sworn interview (**BR06**) that the officers damaged the door while making forced entry.

NYS Criminal Procedure Law § 690.50 permits officers who have obtained a valid search warrant to enter and search a location (BR15).

§ 87(2)(b), § 87(2)(g)

Allegation (D) Discourtesy: Detective Jerry Varice spoke discourteously to § 87(2)(b)

Allegation (E) Abuse of Authority: Detective Jerry Varice threatened § 87(2)(b) with the use of force.

Allegation (F) Offensive Language: Detective Jerry Varice made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)

Allegation (G) Discourtesy: Detective Jerry Varice spoke discourteously to § 87(2)(b)

Allegation (H) Discourtesy: Detective Jerry Varice acted discourteously toward § 87(2)(b)

As noted above, § 87(2)(b) did not file the complaint until approximately five months after the incident. § 87(2)(b) testified in his initial complaint that officers threatened to shoot and kill him and his dog, called him a “bitch,” told him to “man up,” and brought him to the living room naked. § 87(2)(b) specified in a later phone statement that Det. Varice initially came into his bedroom and said, “Motherfucker, you make that dog jump, I’ll kill you and the dog, I’m gonna shoot and kill.” Det. Varice then handcuffed § 87(2)(b) and said, “Stop being a bitch, man up, you know what you did.” Det. Varice brought § 87(2)(b) to the living room naked. Later, Det. Varice and another officer gave him sweatpants with a hole that exposed his genitals. § 87(2)(b) was not cooperative with providing a full, sworn statement to the CCRB.

§ 87(2)(b) testified in her phone statement, also approximately five months after the incident, that she heard an officer threaten to shoot § 87(2)(b) dog, but she was not in the room at the time and therefore did not see which officer made the remark. She did not provide testimony about the threat to shoot § 87(2)(b) dog during her later sworn interview, which did not occur until approximately seven months after the incident. She recounted in her initial phone statement that she heard two white male officers call § 87(2)(b) a “bitch” and tell him to “man up,” but she could not recall if this was at the time the officers moved § 87(2)(b) to the living room, or if it was later when the officers removed him from the apartment. In her later interview, she specified that just one white male officer told § 87(2)(b) “Shut up and man up, stop being a bitch,” once he was already in the living room. In her phone statement, she did not describe § 87(2)(b) clothing once the officers brought him to the living room. She recounted in her interview that, when § 87(2)(b) left the apartment, he was wearing “loose” sweatpants with a fist-sized hole in the “private” area which exposed his genitals. § 87(2)(b) never testified that the officers brought § 87(2)(b) to the living room completely naked. She added that § 87(2)(b) sweatpants fell down, and his “genitals came out a little bit,” when he was leaving the apartment.

The investigation made unsuccessful attempts to obtain a statement from § 87(2)(b)

Although § 87(2)(b) variously testified that one or two white officers made the alleged remarks, § 87(2)(b) identified Det. Jerry Varice, the lone black officer present during the incident, as the subject officer. § 87(2)(g)

Det. Varice, who is a black man, was not interviewed until approximately 21 months after the incident (BR08). He denied that he made any of the alleged remarks to § 87(2)(b) and denied hearing any other officer do so. Det. Varice did not remember any civilians being naked or partially clothed during this incident, and he denied seeing § 87(2)(b) wearing sweatpants that exposed his genitals.

Det. Madden was not interviewed until approximately 19 months after the incident (BR07). He denied hearing any officer make the alleged remarks. Det. Madden did not recall if § 87(2)(b) was initially naked or dressed in his bedroom, and he did not remember how § 87(2)(b) was dressed once he was moved to the living room. He did not recall § 87(2)(b) being naked in the living room, wearing pants that exposed his genitals, or his pants falling down and exposing his genitals.

Sgt. Scheinblum was not interviewed until approximately 22 months after the incident (BR09). He denied hearing Det. Varice make the alleged remarks. He did not remember if § 87(2)(b) was dressed or undressed initially, but he noted that procedure dictated that any resident during a search warrant execution would have been dressed if removed from his or her bedroom. Sgt. Scheinblum denied that § 87(2)(b) was brought to the living room naked, and denied that he was dressed in pants which exposed his genitals. Sgt. Scheinblum maintained that officers under his supervision during a search warrant execution would not have an occupant remain naked in the living room.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation (I) Abuse of Authority: Officers threatened to arrest § 87(2)(b)

Allegation (J) Abuse of Authority: Officers threatened § 87(2)(b) with the arrest of § 87(2)(b)

§ 87(2)(b) did not testify in his initial complaint or his phone statement that officers threatened to arrest § 87(2)(b) or threatened § 87(2)(b) with the arrest of § 87(2)(b)

§ 87(2)(b) testified in her phone statement that officers asked her if there was a gun in the apartment, then said, “If you don’t tell us that something’s in there and we find it, your grandmother will get arrested, all of you will get arrested, and you’ll lose the apartment.” § 87(2)(b)

§ 87(2)(b) testified in her interview that two officers brought her to the kitchen alone and asked her if there was a gun in the house, which she denied. They responded, “If you tell us there’s a gun and give it to us, it’s a misdemeanor; if we find a gun and you don’t tell us, you’re all going to jail.”

Det. Madden did not remember two officers bringing § 87(2)(b) into the kitchen to talk privately. Det. Madden denied making the remark specifically alleged by § 87(2)(b) and he denied hearing any other officer do so. Det. Varice similarly testified that he did not see anyone on the entry team question § 87(2)(b) in a separate room. He also denied making the remark or hearing any other officer do so. Sgt. Scheinblum also did not recall any officers bringing § 87(2)(b) into the kitchen to speak privately, although he acknowledged that it could have happened. He did not recall being present for such a conversation. He also denied hearing any officer make the alleged threat.

§ 87(2)(g)

Allegation (K) Abuse of Authority: Officers damaged § 87(2)(b)s property.
Allegation (L) Abuse of Authority: Officers damaged § 87(2)(b)s property.

§ 87(2)(b) noted in his initial complaint that officers “ripped” his school and college certificates off his wall. § 87(2)(b) recounted in his phone statement that five officers searched the apartment. After the search, he realized that they had ripped his school certifications and broken his sister’s bed. § 87(2)(b) did not personally see officers create any of the alleged damage, and he did not provide any photographs of the damage to the investigation.

§ 87(2)(b) testified that, after the incident, she found that her bedframe and dresser had been broken. She also recounted seeing that § 87(2)(b) certificates were ripped. She remained handcuffed in the living room throughout the search and thus did not see the officers create any of the alleged damage. In her phone statement, she identified four officers as the ones who conducted the search. In her later interview, she instead recounted that those four officers remained with her in the living room while six other officers conducted the search. § 87(2)(b) also and did not provide any photographs of the alleged damage.

Det. Varice denied that he committed the alleged damage, and he denied seeing any other officers do so. Sgt. Scheinblum did not see officers damage a bed and dresser, though he noted that household items can sometimes sustain incidental damage during a home search. He specified that he also did not see officers rip certificates, and that he would have notified IAB if he had seen that behavior, as it would have been “malicious” and not incidental to a search. Det. Madden could not recall if officers committed any of the alleged damage.

§ 87(2)(b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR10).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR11).
- Detective Daniel Madden has been a member of service for 10 years and has been a subject in 6 CCRB complaints and fourteen allegations, none of which were substantiated (BR12). § 87(2)(b)

§ 87(2)(g)

- Detective Jerry Varice has been a member of service for 10 years and has been a subject in four CCRB complaints and eight allegations, none of which were substantiated (**BR13**). § 87(2)(g)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of July 22, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint (**BR16**).

• § 87(2)(b)

• § 87(2)(b)

Squad: 5

Investigator: Katherine White Inv. Katherine White July 22, 2021
Signature Print Title & Name Date

Squad Leader: Daniel Giansante IM Daniel Giansante July 22, 2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date